

Bank of Texas talks Business Succession Planning



From left: Sam Guerin, Chris Graber, J.B. Huck, Mark Walker, Bill McCoy, Mike Benedict

One of the most exciting days in the life of any entrepreneur is the day the doors open on the business he or she has dreamed of, worked toward and even sacrificed for.

And perhaps one of the most traumatic periods is when that entrepreneur begins to contemplate the day that business will be sold or handed over to others, perhaps family members or sometimes total strangers.

But they don't have to do that alone. There are professionals who can help.

Bank of Texas Private Wealth invited six of those professionals with extensive experience to a roundtable discussion of the planning necessary to

avoid the pitfalls of that transition.

The discussion was wide-ranging, covering topics such as:

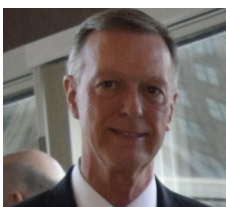
- What options does a business owner have when thinking about a sale or transition of the business?
- What are the options a business owner has to transition a business partially?
- What are the psychological impacts to consider when considering the sale of a business?
- Once the decision to sell has been made, what are the first steps that need to be taken?
- What are the first steps to maximize the value?
- What are some of the biggest mistakes a business owner can make in a third-party sale or a

management buyout?

- What are the major tax implications involving a sale or a management buyout?
- What about the charitable side? Is this an opportunity pre-sale to structure some kind of trust?
- Why is it important for a commercial banker to be asking about a business succession plan?
- How is estate planning different from succession planning?
- What about business continuity instructions in case of a death or incapacitation?
- How can an owner avoid or address unwanted family dynamics when planning an exit strategy?

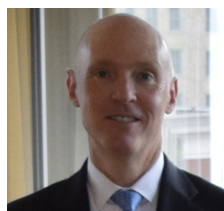
- Paul Harral

Our panel:



Sam Guerin

Senior Vice President and Personal Trust Team Leader, Bank of Texas Private Wealth



Chris Graber

Senior Vice President and Managing Director of BOK Financial Corporation



J.B. Huck

Senior Vice President and Fort Worth Market Executive, Bank of Texas Private Wealth



Mark Walker

Executive Tax Partner with Weaver



Bill McCoy

Senior Vice President and Manager of Corporate and Commercial Banking, Bank of Texas



Mike Benedict

Private Wealth Advisor, BOK Financial Private Wealth, Inc.

**J.B. Huck:**

Mike, what options does a business owner have when thinking about a sale or transition of the business?

Mike Benedict:

I think the best way to approach that question is to start off with some questions a business owner ought to ask themselves as they're starting to think about and plan for an exit and the sale of their business.

One of those questions would be, well, how much do they need in the transaction? Typically, it's going to be a retirement event. To really answer that question, they ought to have a personal financial plan developed. That will answer the question, how much after tax to get out of the transaction.

Another question that needs to be answered is what's the business worth? I would recommend that they go out and get an appraisal, a third-party appraisal from a qualified accredited appraiser. Especially if it's going to be an insider transaction because they'll need to have that value established. Even if they're thinking about a third-party sale, to have an idea of currently what the business is worth. That way they can work that into their financial plan.

Another question that they need to answer is what is the tax implication of the transaction. I think many business owners are surprised that a significant percentage of the transaction could be treated as ordinary income. I think sometimes they get some negative surprises on that aspect of it, so they need to understand that upfront and have a conversation with a CPA.

Another question that they can attempt to answer, they won't always know the exact answer, but have an idea of the date. When is this going to happen? That's important for planning purposes. Now obviously, as owners go through the process that date can change, but there should be an initial date that can be used for planning purposes.

Another thought and question to answer, something to think through, is what type of sale is it going to be? Is it going to be an insider transaction where maybe they're selling to key employees or family members or some combination of that? Or is it going to be an external sale to a third-party? I'll tee it up that way and I'll just turn it over to the rest of the panel to jump in with some other ideas on options an owner may have.

Sam Guerin:

One thing that comes to mind in our trust area is how does the family fit into the sale and transition. Are there multiple children going to be involved? Who's in charge? Has anyone been groomed? Is it a blended family? Those are the discussions that need to take place.

Another key factor on a sale or transition of a business is when an owner starts to think about it, that's the time they ought to reach out to seek the expertise and resources that others can provide. Because the more time you have before a sale happens, the more effectively you can transition that business and, candidly, the more money you can make when you do sell.

Bill McCoy:

That's a great point. Selling their business is likely the most significant financial transaction in a business owner's life. It is critical that they assemble a team of advisors that have experience & expertise to guide them through the process.

Mark Walker:

Those are all great points. You can never start too early on a succession or business plan. There's so many different things to consider. Some have already been

mentioned regarding whether it's a family business, how large the business is, whether there are family members involved in the next generation. It's fact-finding with the business owner.

That process should start soon after they start their business. There's a hundred percent chance that every business is going to be transitioned one way or the other, because we're not going to live forever.

The question becomes who's going to run that transition process? How much time are you going to have? Sometimes you don't have a lot of time if that transition is driven by an outside third-party. You really should have already gone through that process well before you are thinking about selling it. Although, that is when everyone starts focusing on it.

J.B. Huck:

Chris, you want to weigh in on one of the options a business owner has to transition a business partially?

Chris Graber:

I think there are many considerations. A successful full or partial sale of a business could be predicated on a family retaining some ownership interest and/or some form of the management

team continuing to be involved in the business. That type of consideration dovetails with the pool of potential acquirers or partners long-term, whether it's strategic or a financial buyer.

Mike Benedict:

The original question was what options does an owner have?

If we're thinking about an insider transaction, maybe the company is well run, has a strong management team, a strong key employee group. Then a possibility could be an ESOP. I think that ESOPs are probably under-utilized. I think they're misunderstood. I think in a lot of situations they have bad raps.

But in the right situation an ESOP can make a lot of sense. Here are some rules of thumb for a possible good ESOP candidate: a company that has over \$10 million in annual revenues, has over \$1 million in annual payroll that doesn't include the owner's compensation and has a strong management team that could run the company. That's probably a situation where the owner could explore an ESOP. There's a lot of significant tax advantages for an ESOP to do that.

Circling back to Chris's comment, the result could be a hybrid of the two. It could be an insider sale primarily. But also, there could be some outside equity investments that could be from a minority investor that could provide some liquidity for the owner. That works pretty well in situations where we're trying to protect the balance sheet of the company, not put too much stress on the balance sheet post-transaction. Sometimes something like a hybrid could work really well for an owner.

Mark Walker:

You may have a member of the family that is targeted as being the successor, but maybe is not quite there yet.

You really need to make sure you utilize existing management in the company, your CFO and your CIO or COO. Make sure that they are locked into the company so they don't leave.

What we've done in the past, as an example, is to recapitalize the company with nonvoting stock in addition to voting stock and put golden parachutes out there for the key men using nonvoting stock.

Many times that business owner

doesn't want to give up any voting control of the company, but yet wants to have a hook to retain staff while developing the next leader, who may be in the family or ultimately may not be. But, you want to retain that core group in the company that will help make it a successful transition.

J.B. Huck:

I think there were a lot of valuable comments around that, and I think that the responses took on a lot of aspects of some of our planned future questions. Let me move onto the next one and I'm going to address this to Sam.

What are the psychological impacts to consider when considering the sale of a business?



Sam Guerin

Sam Guerin:

Psychological impacts and emotions are kind of synonymous. I think it can be a happy, sad, glad time for some of our owners as they approach that moment of sale. We do see a lot of apprehension in pulling the sale trigger, though.

I think self-worth issues come into play here with an owner who has worked all those years to build up their company. Believe it or not, there is a reminder of age and partial retirement or full retirement can be scary. I think the owner might have concerns for the employees and the company values that have been instilled. You've given your heart and soul to the company. Is the successor company going to follow those same values as what you had?

Depending on the terms of the sale, I think another psychological impact that can occur is the change of going from a decision-maker to part-consultant or retiring totally. This change from no longer being the decision-maker can have an emotional and

psychological impact that falls into the self-worth concerns. I think on the personal family side, questions of how's a sale going to affect them? How's the security of my family going to play out?

These are all common psychological impact questions that an owner could be asking themselves and I think should be addressed.

Mike Benedict:

I'm just going to reinforce something that Sam mentioned because I think it's so important. Owners who are anticipating a third-party sale really need to think about what life is going to look like after that sale.

It's very common that they're going to be an employee for a couple of years afterward. They're going to be working for somebody. That's a huge change. Maybe they've been large and in charge for 20 or 30 years. What's that going to feel like to be an employee?

Really think through that aspect of selling to a third-party. I would say sometimes maybe that might even lead an owner to consider an insider transaction to avoid the stress of going through a third-party sale.

But, I think owners sometimes start thinking and wondering, how do I sell my business to a key employee that makes \$150,000 a year? They can't write a check for it. How do you do that?

Fortunately, a group like this panel today, with enough time, we can help design a transaction for an owner that they can actually avoid doing a third-party sale if that's not really their true desire.

Mark Walker:

And all those feed into the ego of that entrepreneur. Most have a pretty big ego and drive to be successful. But, included in that ego is a big heart, because they're so concerned about their employees. That's a big part of the transition going forward. Many times the owner is very concerned about existing employees and what's going to happen to them.

It's not all about what the monetary reward's going to be to the owner. Most have a great concern about their employees.

Bill McCoy:

Another factor that you mentioned that I think is a critical component is the whole family dynamics piece. Oftentimes, there may be a child who is involved in the business and there are other children who are not involved in the business. If the owner decides to sell the business, what impact does that have on the child that has stayed in the business and worked in the business? What impact does it have on those who have played little to no part in the success of the business? Thinking, talking, and managing through all of those issues is really important as well.

Sam Guerin:

Yes, the extended family and their roles can be complicated at times but there are ways, through proper planning, that can correct or solve some of those.

Mike and I talked recently about equalizing inheritance through insurance. There are all sorts of tools that can be used and it is something to think about beforehand.

Having a clear understanding means defining expectations and the objectives. That will go a long way to minimizing some of the concerns. Having a good understanding of the weightings between price, structure, involvement in the business post-close, roles of children and key employees can be helpful. Being able to have defined expectations for what an owner wants to do to make sure that the transition, in whatever form it takes, is successful.

Mike Benedict:

I would suggest for business owners that are reading this to not confuse fair with equal. I think a lot of times when you're dealing with a business and business-active children and non-business active children, that it may not always be equalized.

Not only the amounts that may be involved in the estate planning, but also the timing. It could be that the business-active child acquires some of the business while the parent is still alive, but the non-business active children acquire their piece of the estate at the death of the parent. Just thinking it through from those perspectives may offer some flexibility for a

family that's trying to do that kind of legacy planning.

J.B. Huck:

Chris, when a business owner decides to sell, what are the first steps that need to be taken?



Chris Graber

Chris Graber:

I believe they need to start with answering three key questions. The when, the why and the how.

You start with the when - set a goal or an objective in the future for the identified time frame to execute some form of a transaction. They will want to make sure that they've developed a road map to accomplish some of the more advantageous structural and succession planning components.

The why - what are the motivations? Is it about financial flexibility? Ability to retire? Ability to provide growth and liquidity for the family? Are there other motivations?

The how - is there a succession plan that's in place? What are the necessary steps to execute on that program? The "how" question is more tactical in nature. What steps do they need to put in place to execute the transaction? They need to make sure that they're thinking through the types of advisors they need to help them effectuate that change. Those can include tax and accounting advisors, a corporate lawyer, transaction attorney, a financial advisor, and an investment banker.

I think those are the three primary points that one should consider at the onset of that decision making process. Then seek to identify and prioritize the necessary steps to execute on those key milestones or key objectives.

J.B. Huck:

I'm pretty confident some other people have some thoughts about first steps to obviously maximize the value. Mike?

Mike Benedict:

The simple sales price formula for a business is revenue multiplied by profit margin multiplied by a multiplier.

And so if an owner can just make incremental improvements on those three components they can recognize a significant increase in value. For example, a 5% increase in revenue, a 5% increase in margins and a 5% increase in the multiplier will increase the total value of the business by 16%.

So, take this as an opportunity as you're starting to prepare for a sale to scrub every aspect of the business. Scrub the entire operation - for example, review shipping rates, utility costs, employee benefit costs, insurance rates and so forth.

Those improvements can help impact the margin. To increase the multiplier consider investing in audited financial statements. Invest in management development for the key employee group.

If an owner can't take a three-week vacation without the business imploding, they have a key management issue and that's going to affect the value.

Diversification of a customer base is another important multiplier. Yes, it's true that some businesses have a long time relationship with a customer. Maybe that customer represents 30 to 40% of the business and the current owner's very comfortable. They're not concerned about losing that customer, but a buyer is not going to have that same comfort level and so if there's a way to increase the diversification, the client base and customer phase, that will be beneficial.

Mark Walker:

I would also add that one of the most important first steps that a business owner might contemplate is to put a team around them of trusted advisors.

Professionals that have been through it before, whether it's your commercial banker, tax person, estate planning attorney, that type of thing.

Having those people around can guide, elevate and assist with assessing the strengths and weaknesses in the business.

Who can you trust to help you? Whether to family or employees or

a sale to a third-party, having the right team around you critical.

Sam Guerin:

I would add to make sure one has a good overall estate plan that takes into consideration your business and succession plan. Optimizing the sale and taking into account tax consequences.

J.B. Huck:

What are some of the biggest mistakes a business owner can make in a third-party sale or a management buyout?



Mike Benedict

Mike Benedict:

We could spend a lot of time on this topic.

I would say in a third-party sale, losing leverage through the sales process. One way an owner can maintain leverage is having multiple interested parties.

If an owner is just responding to a phone call they get from a potential buyer and just dealing with that one buyer, most likely they're not going to have leverage as they go through that process, and I'm not just talking about leverage on the sales price, I'm also talking about the leverage on the terms of the deal such as cash at closing, indemnity agreements and holdbacks. And so that's one I think is critical is having multiple interested parties.

Mark Walker:

Once again, not having thought through an exit strategy in advance of any offer. Not going through the planning process and anticipating that this day will come at some point so if you've already had your thoughts clear before it gets confused with a specific offer or someone who comes courting after you.

As I've mentioned many times in the past, there's a hundred percent chance that all owners will have an exit at some point in time. It's just called life but it just depends on

when you want to start planning that exit strategy and the sooner the better and it won't ever fit perfectly into the scenario that arises at that point in time.

But if you go through the process and know what you're trying to achieve with your biggest asset probably in your balance sheet, then it's a lot easier to deal with what the process is like and then, once again, surrounding yourself with the professionals that have been there and done that and not trying to do it on your own because you think you know what your business is actually worth.

I've had many examples through the years of clients that pretty well know what their business is worth, but they don't know as it was mentioned earlier, some of the things that can enhance that value and doing it well in advance of the date that you get an offer on the table is much better than trying to plan after the fact.

Chris Graber:

I would say in addition to being proactive and having a plan in place is taking a holistic view on the transaction and the partnership. In most cases, it is more than just based on financial terms. There are many other considerations that need to be factored into a decision in the sale or exit of a business.

Mark Walker:

The final thing I'd add is that it's a mistake to not understand the key components that will determine the value in a business. Things Mike mentioned - not having a succession plan or key management in place to handle things if the owner is out of pocket.

Others might be supplier concentrations, customer concentrations, or costs that are not necessary to the acquirer.

When you have time, you can optimize the value of your business. It may be important to understand what those items are in your business.

Bill McCoy:

One thing I routinely see occurring on third-party buyouts for closely held businesses is that owners can be surprised & overwhelmed by the amount of due diligence that's involved by an outside third-party. They really have no idea what's coming

their way if they've never been through a sale before. Having an understanding of what might be required before becoming involved in a sale is an important part of the planning process.

Mark Walker:

Having audited financial statements can certainly help make that go smoother. Many times a business owner will say, "I don't want to spend the money," but ultimately they may be giving it back by not having financial statements that a buyer can rely on.

Benedict:

I would be shocked if an owner invested in audited financial statements and didn't increase the value of the business by more than the additional cost of the audits. And I just want to reinforce and re-emphasize what Mark mentioned on a pre-sale due diligence. I would say one of the biggest mistakes that owners will make is to not execute any pre-sale due diligence which would be internal due diligence before a letter of intent is signed.

Letters of Intent include a time frame, and that deadline is stressful. The owner's trying to run the business while trying to provide data to the potential buyer. Why not go ahead and do pre-sale due diligence in front of all that and bring in a team that has buy-side experience to go through and scrub the business from the perspective of a potential buyer?

The team will review contracts, employee handbooks, the accounting system, and build a data room. And so when you do have a potential buyer and letter of intent, you're ready and it can streamline the process and significantly increase the likelihood of getting a deal done. Thank you to Mark for reminding me of that.

One other I think is important.

Some deals will fall through because key employees will realize how important they are to the company. And if the owner hasn't set up some kind of incentive plan for the key employees such as a sales bonus, it could cause a snag in the process.

So not only are we enhancing the chance that a deal will get done but actually increase the value of the business. If you have a key employee group that has incentive plans in place to stay employed



through a business transition, buyers will appreciate that and can enhance the value knowing that the key employee group has a financial incentive to stay through an ownership transition.

J.B. Huck:

Mark, would you share with us some of the major tax implications involving a sale or a management buyout that you see?



Mark Walker

Mark Walker:

The one tax issue that most are interested in is how much is going to be capital gain versus ordinary income, and most hope that the majority of the sale will be capital gain.

Of course that is affected by how it's structured and what type of legal entity you're operating in. Certainly, if you're operating as a C-corporation and you sell stock, then you're going to get capital gain on your sale. The problem is many buyers aren't particularly

interested in buying the stock of a corporation because of the negatives that come with everything inside the corporation.

So capital gain versus ordinary income is at the top of the list or near the top of the list.

One of the problems that you'll see is on flow-through companies, primarily partnerships and S-corporations. Smaller businesses often operate for tax purposes on the cash method of accounting.

But when you sell your business, and particularly if you sell the interest in your business, a lot of that income will be converted from capital gain to ordinary income to the extent that you have not recognized accounts receivable, any appreciated inventory, or if you have significant depreciation of equipment in your business. That depreciation typically will be recaptured as ordinary income.

There's a lot of work that needs to be done in advance of the sale so that you can determine just what might be treated as ordinary income.

Another common thing that you'll see is installment sale treatment on sales where you may be able to elect to defer that gain into the future.

Key man agreements and options a lot of times sneak into deals at the last minute. Clients try to draft them in when they see the

sale is imminent and they'll try to take care of key employees.

The problem is at that point it's too late because you already have a fair market value established for the business and it's very difficult to get an agreement in place that benefits that key employee that they're not either going to be picking up income, or they're going to be paying fair market value for that benefit.

So those are some items that you'll want to look at beforehand. A lot of the conflicts that you'll find are whether or not you're going to have an acquisition of assets inside the company, or as I mentioned before, a purchase of a membership interest or stock in a company.

Most buyers are more interested in buying the assets of the company because they get tax benefits that they don't get when they're buying an ownership interest or equity. There are always exceptions to the rule, but generally they're going to be more interested in buying assets.

Another thing that catches clients off guard, particularly when they're an S-corporation, is they have a buyer offer to buy the stock of the S-corporation and they think that that's going to be great from a capital gains standpoint, but then the buyer adds a reference into the purchase agreement that states that the buyer will make what's called a

338(h)(10) election, which looks through the stock and adjusts the underlying value of the assets of the S-corporation.

Problem is that may create additional ordinary income to the seller because it's converting capital gain to ordinary income.

If you haven't done your work in advance or have the right advisors surrounding you, it can really catch you off guard.

Benedict:

I'm not a CPA. Let me get that out of the way, but I will tip-toe into these shark infested waters. But if somebody who's reading this has a C-corporation and they're considering an insider transaction, there are significant tax savings if they did do an ESOP. They've got to jump through a lot of hurdles and chances are, just based on raw statistics, they won't wind up doing – or at least the chances of them doing – an ESOP are fairly small.

But in the right circumstance, if someone who's selling a C-corporation does it through an ESOP, they can take advantage of certain IRS elections and either defer capital gains off the transaction or maybe even eliminate them depending on their holding period if they held their stock, the replacement securities, until their death.

So obviously if they want to consider an ESOP, they need to reach out. We have resources here at this table. We can help an owner evaluate if that is a viable option.

Sam Guerin:

With a large liquidity event, such as selling a business, good planning is a must. There are so many estate planning tools that can be utilized to reduce one's estate value, with the lifetime exemption presently at \$11.4 million, per individual. Having a good estate planning team in place is crucial.

Mark Walker:

Have people that have been through it before, whether it's your commercial banker, your tax person, estate planning attorneys, that type of thing.

But having a team around that can assist in a candid assessment of the strengths and weaknesses of the business, a key first step.

Who are you going to lean on? Who's going to help you? And based on the type of sale that you're contemplating, whether it's to a transition to family or employees or a sale to a third-party, having the right team around as you think through that is critical.

J.B. Huck: **Are there charitable considerations to take into account with a sale, such as setting up a foundation?**

Sam Guerin:

And some certainly will set up foundations before a sale, not necessarily that I've seen directly correlated to a sale of their business. It may be after the liquidity event to utilize the sale point to help with taxes.

Most of the time, we see clients structuring foundations needing somewhere north of \$700,000 to \$1 million that they're willing to fund the foundation with before they really go that route.

Mike Benedict:

I would just stress that in succession planning and estate planning are really interconnected. We really can't do one without the other. And now I'll circle back to why the financial plan is so important.

It's not only important in the perspective of understanding how much an owner needs to fund their retirement, but it also helps to understand how much they can give away. And so, they can identify a number that they're comfortable in doing charitable planning as well.

Also circle back to why time is important, even if it's not charitable giving, but if it's giving to children, you've got enough time in advance of the transaction to set up a grantor retained annuity trust (GRAT) and effectively transfer ownership over. A well-designed GRAT could potentially avoid using the applicable estate tax exclusion or paying any gift tax.

J.B. Huck: **Why is it important for a commercial banker to be asking about a business succession plan?**



Bill McCoy

Bill McCoy:

There really are three primary reasons.

First, an experienced commercial banker knows the business owner personally. The banker, he or she, has a relationship with the business owner and likely knows what is most important to that business owner. Is it providing for children, both where some are involved in the business and some are not involved in the business? Is it providing for key employees? Is it leaving a legacy in the community or is it about realizing the largest amount of money? Regardless, based on the banker's understanding of what the priorities of the business owner are, the banker can then marshal the resources and bring to the table the appropriate people to facilitate the sale or the transfer.

The second reason it's important for commercial bankers to ask about succession planning is to understand the timing. We've talked a little bit about this... that the more time a business owner has before they're ready to transition, the better. There are specific things that businesses can do to make themselves more attractive to potential buyers, thus realizing a higher sales price. It also provides time to prepare children or employees for a transition.

The third reason it is important to involve a Commercial Banker is that the vast majority of business transitions (in a sale, family transition, or ESOP) involve the following components:

There is typically capital contributed by the buyer. Buyer bringing cash to the table.

Many times there is seller / owner financing of some sort that's involved.

There is also typically third-party financing. Whether that is senior debt or some other form of debt, the commercial banker can help

facilitate third-party financing options. It could be sub-debt, mezzanine debt, preferred stock or a combination of all of those things. A good Commercial Banker can help facilitate making the transaction actually happen.

Mike Benedict:

I'll just jump in it from my perspective. I spend most of my time designing transactions for insider sales.

A commercial banker is an important part of my team because even though we may not actually do the senior debt loan for three, four, five years down the road, we need to know the debt capacity of the company today, as we're making projections and doing planning, because we don't want any surprises three, four or five years down the road when we're ready to maybe to complete the transaction, pay off the owner, get a senior loan and come out and, "Oh my gosh, the company's not going to qualify for what we need." So it's an important part in my world, a commercial banker is an important part of that team.

J.B. Huck:

Thank you for sharing that.

Mark, would you address why or how estate planning is different from succession planning?

Mark Walker:

I would almost like to call that a trick question.

Is it a family business that is continuing on within a family? Is it a business that's going to be sold to an outside third-party? Whenever you start looking at the aspects of estate planning versus succession planning, there's a lot of different dynamics that play on that.

Typically, estate planning focuses on asset protection, discounting of assets that are going to be transferred during your lifetime, preservation of assets, and what's going to happen to your estate after death. Certainly, your business in many cases is the biggest asset within that estate. So, succession planning can play a very key role in what your estate will look like in the future.

Differences between a business succession and a family succession plan? Starts with family dynamics and whether or not you have a willing and capable leader for that

next generation?

And then the fairness discussion that we had earlier, how you're going to split that estate. Is it equitable and are you interested in that. So, there's a lot of different issues.

They can be tied at the hip though, when it comes to family businesses.

We have some clients who are interested in leaving a legacy for their family because that business has been successful during the entrepreneur's lifetime.

A trust, such as a dynasty trust, can be a useful tool in a succession and estate plan. It can provide many solutions including wealth disparity in the estate plan and educational needs of future generations. There are a lot of different that go into the estate and succession planning.

But typically, you're looking at the entrepreneur, the owner of the business, being able to provide for the family after the succession plan up until his death. And that's where Mike and the financial planning side comes in. Making sure there is a liquidity event available that will be sufficient to meet the needs for years after the business has been sold.

Sam Guerin:

Mark mentioned estate planning and succession planning. I'm a little more involved with the estate planning aspect and the orderly focus on preservation and transfer of wealth to that next generation. It's about efficient tax planning.

One of the areas that we, in the trust arena, discuss is the critical review of the next generation needs and their capabilities. And so, a lot of estate planning is centered on the children's capabilities and possible use of Trusts.

It's a very fluid, sometimes difficult subject to talk about and determining what is the best plan for each child or beneficiary going forward.

Mike Benedict:

I'd piggyback onto those comments that the other aspect of estate planning is that if you don't execute on a succession plan and the business winds up in the estate, you may have liquidity problems at that point in time.

There's elections you can make to extend out the payment of estate taxes. This is specifically designed to protect family-owned business

and help them continue on. But that's a shock to your heirs if you haven't gone through that whole estate planning process, and it's the fear of the unknown.

So, going through the whole process of, "Do I have a succession plan in place, that is part of my estate plan?" is really key and it eliminates a lot of the things that keep my clients awake at night that haven't done that. And whenever we get that put behind us, a lot of times they say, "That's really one of the biggest issues that bothers me."

If your estate is large enough and during your lifetime, the estate plan, you can gift \$11.4 million per individual during your lifetime of value, tax free at this point in time, with the current tax laws.

That saves a lot of tax because the current estate tax is 40%, which is a lot less than the income tax is which... during your lifetime and certainly half, almost double, of what the capital gains tax is, if you sell your business with capital gain treatment.

So, there's a lot of reasons why you want to do the planning for estate and succession planning if you have a closely held business during your lifetime. And so not just you, but your family, knows what to expect in the future.

J.B. Huck:

I'm going to use this question to just touch on another topic that's related – business continuity instructions. I think Mark touched on it earlier. The owner's going to exit their business, in some form or fashion. We've been focusing on sales, insider transactions, third-party sales, but what if it is a death or incapacitation?

Mike Benedict:

I think it's important for owners to have business continuity instructions for their business. It goes way beyond just simply a buy-sell agreement. It goes into who's the person who communicates to the employees that the owner's dead, but everything's going to be OK? Who reaches out to the vendors? Who reaches out to the customers?

Who reaches out to the bank? Did the deceased owner have a personal line or guarantee that someone else needs to step up and cover it?

It's simply written instructions,

and it even can go down to the details of where passwords are kept and so forth. Having written business continuity instructions can save a lot of heartache if that unfortunate death occurs.



J.B. Huck

J.B. Huck:

Wrapping up with this final question that boils a lot of these prior questions into one, and that's how can an owner avoid or address unwanted family dynamics when planning an exit strategy?

Sam Guerin:

It's understandable that an exit and sale of one's business has a large dynamic and emotional impact on oneself and the family. There's so many different family emotions at play.

There are, of course, the complications of blended families that I mentioned earlier, but through proper planning, they can be worked through. I feel it is important to remember that communication and transparency is critical. Talk to your children and family honestly about your desires, your business succession plans, your estate plan and how it affects them.

First of all, money discussions are very emotional, as we all know. Let your children and beneficiaries know your feelings. Make them a part of that decision making process. It's not always possible, but I think it's a good approach, if you can.

If trusts are involved in the planning, one need to explain the reasons for trusts. There's so much misunderstanding of trusts "You don't trust me with finances," or if you put one trust in place for one child and not another, it can have negative effects.

We've found that unwanted family disputes most often appear after death, when the parents are gone. You were the "glue," that held

things together and generally the sibling rivalries don't appear until after your gone. So back to my communication and transparency statement. It is critical that these discussions need to be had early on and how exiting a business might affect them.

Another observation that might be helpful, when dealing with family dynamics, would be discussion and respect for the next generation and their different views of how they see wealth and spending.

The workplace has at least four generations working together now. As difficult as some people might find it to do, I think we should be listening to those generations because they will have different ideas from our own. Using an example. This generation might not want to be working in a business 24/7 or 12 hours a day. This generation might want to be able to spend more time at sporting events, with their children. They may not want to work long hours like their parents did. They may have different ideas on how to make a living. These are some of the personal aspects of family dynamics that we see and discuss frequently.

Mark Walker:

You're saying what I've seen through the years. For clients, this may be the most single stressful thing for them to address, if not, certainly in the top three, because they desire to be fair with all their family.

Therefore, they won't do anything, and not deal with it.

Doing nothing is basically pushing the problem off to someone else as opposed to you making the decision. I think that my comment would be that as difficult as it may be, at least do something and make a decision. The decision will be made by someone else and it may not be exactly the way you wanted it to be done.

McCoy:

I guess I'd say that ultimately our goal is to help our clients grow and transition their businesses. As a result, we fully expect our clients to exit their businesses when the time is right. The more that we can be involved and the earlier we can be involved, the more effective we can be as a resource throughout the process.



Tips To Remember

Begin Planning Early

The more time you have to plan your succession, the smoother the transition.

Involve Your Family

Your plans will affect your beneficiaries; include them in the process to ease potential discord.

Identify a Successor

Whether a family member or a trusted employee, grooming for leadership takes time.

Know Your Market Value

Your company's financial standing plays an integral role in your planning process.

The One Thing Every Business Plan Should Have: A Succession Strategy.

As a business owner, when you think about the future of your company, what comes to mind? Increasing revenues... launching new products...building partnerships. But what about planning for an exit strategy? Having a succession plan in place is key to protecting what you've built for future generations.

At Bank of Texas Private Wealth, we can help you identify the tools and resources necessary to help formulate a succession strategy that meets your objectives. After all, just because you'll eventually retire, doesn't mean your legacy should too.

Let us help you plan for the future.



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